

**FOR THE WAYNE  
CIRCUIT AND SUPERIOR COURTS**

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**NOTICE OF PROPOSED AMENDED LOCAL COURT RULES**

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Notice is hereby given to the bar and the general public pursuant to Trial Rule 81 that the Wayne Circuit and Superior Courts are amending local rules, effective **July 1, 2016**.

All new text is shown by **highlighting** and deleted text is shown by ~~striketrough~~.

In accordance with Trial Rule 81(B), the time period for the bar and the public to comment shall begin on **May 24, 2016** and shall close on **June 24, 2016**.

Comments by the bar and the general public should be made in writing and mailed to: Wayne Superior Court #2 at 301 East Main Street, Richmond, Indiana 47374; or by email to Hon. Gregory A. Horn at: [gregoryh@wayneco.us](mailto:gregoryh@wayneco.us)

A copy of the proposed amended rules may be viewed or obtained in the office of the Clerk of Wayne County located at 301 East Main Street, Richmond, Indiana 47374. A copy may also be viewed on the Indiana Judicial website at:  
<http://www.in.gov/judiciary/2882>

Dated this 24th day of May, 2016.

\_\_\_\_\_/S/\_\_\_\_\_  
Gregory A. Horn, Judge  
Wayne Superior Court #2

**PROPOSED LOCAL RULE CHANGES MAY 2016**

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# **WAYNE COUNTY RULES OF CIVIL PROCEDURE**

*Adopted By Wayne County Bar Association, Originally Effective October 30, 1997  
Including All Amendments, Approved Effective July 15, 2015<sup>6</sup>*

## **LR89-TR3.1-001      WITHDRAWAL OF APPEARANCE**

All withdrawals of Appearance shall be in writing and by leave of court. Further, all motions or petitions for withdrawal shall be compliant with the appropriate and applicable Indiana Rule(s) of Trial Procedure. In the event that a motion or petition for withdrawal is not compliant with Indiana Rules of Trial Procedure, the Court may deny such motion or petition. The Court may deny a request for withdrawal of Appearance unless the same has been filed with the Court at least ten (10) days prior to any hearing scheduled in the cause as unreasonable or not consistent with the administration of justice.

## **LR89-TR5-002      FILING**

### **A.      Filing and Submission Only to the Clerk**

All papers presented for filing shall be submitted to the Clerk and not to the court.

### **B.      Separate Motions and Order; Order by Chronological Case Summary Entry Form; Service.**

Proposed orders shall be prepared and filed separately from the pleadings, petitions, motion or other papers to which they have reference.

All orders shall be accompanied with sufficient copies so that copies may be mailed to all parties.

### **C.      Counsel to Furnish Pleadings to Special Judge**

When a Special Judge who is not a Wayne County Judge is selected and qualifies in a case, copies of all filings subsequent to the qualification of such Special Judge shall be delivered in person, by mail, or by facsimile to the office of the Special Judge with certificate of forwarding same made a part of the filing.

## **LR89-AR12-003      FACSIMILE FILING**

Facsimile filing is permitting in the Wayne Circuit and Wayne Superior Courts. If the filing requires immediate attention of the Judge, it shall be so indicated in bold letters in an accompanying transmittal memorandum. Facsimile filing must be through the Clerk's central reception number (765-973-9250). Legibility of documents and timeliness of filing is the responsibility of the sender.

Any documents filed by facsimile which seek an Order of Court must be accompanied by a copy of a proposed order. Such proposed order must contain the requesting party or attorney's facsimile number in the distribution list. If the Court adopts the proposed order and certifies that an emergency exists, the Clerk shall return such Order to sender by facsimile. Upon receipt of the Court's Order, sender shall serve it upon all parties or counsel of record by facsimile or First Class U.S. Mail and file an acknowledgment of receipt and Certificate of Service via facsimile to the Clerk's central reception number on the form below:

Cause No.

Acknowledgment and Certificate of Service:

I acknowledge receipt of the following order or request from the Court:  
\_\_\_\_\_ and certify that I have served a copy of the  
Court's Order or request upon the following parties or counsel of record:  
\_\_\_\_\_ via: facsimile transmission; First Class, U.S. Mail

Firm Name

Attorney's Name, Address & Telephone

Attorney's Number

## **LR89-TR06-004      MOTIONS**

### **A.      Preparation**

All pleadings, motions, briefs, and other papers shall be prepared in accordance with the provisions of the Indiana Rules of Procedure.

### **B.      Continuances and Enlargements of Time**

All motions for continuance or enlargement of time (whether 1<sup>st</sup>, 2<sup>nd</sup>, 3<sup>rd</sup>, etc.) shall be made in writing, shall state whether or not opposing counsel objects to the motion, and shall state whether prior continuances or enlargements have been requested by either party and whether such prior request was granted. The Court may require any written motion for continuance or enlargement of time to be signed by the party requesting the continuance.

### **C.      First Enlargement of Time**

The first motion for enlargement of time to file a responsive pleading to a Complaint shall be granted summarily for up to forty-five (45) days. Any request for additional time beyond forty-five (45) days or a subsequent request for enlargement of time shall be at the discretion of the Court.

### **D.      Title of Motion**

All motions for continuance or enlargement of time shall denominate in the title of such motion whether it is the first, second, third, etc. motion for continuance or enlargement of time; e.g. Defendant's Second Motion For Enlargement Of Time To File Answer.

**E. Proposed Orders to Accompany All Motions**

All motions seeking an Order of the Court shall be accompanied by a sufficient number of proposed Orders to be executed by the Court in granting the motion. Proposed Orders continuing a matter or granting an enlargement of time shall not set forth the new date but shall leave the date blank for the Court to complete. Proposed Orders submitted to the Court shall include a list of the names and addresses of all parties or their attorneys and persons to whom the proposed Order shall be distributed. Such distribution shall include, at a minimum, the names and addresses of all parties to the action, or their respective attorneys.

**F.** The Certificate of Service as required by Trial Rule 5 of the Indiana Rules of Trial Procedure shall specifically set forth the names and addresses of the attorney(s), party(ies), or representative(s) to whom the document has been sent.

**LR89-TR33-005 DISCOVERY: INTERROGATORIES, REQUEST FOR  
ADMISSIONS, TIME TO SERVE**

**A. Preparation.** Interrogatories shall be tailored specifically to the cause in which they are served and be numbered consecutively to facilitate response.

**B. Number Limited.** Interrogatories shall be limited to a total of twenty-five (25) including subparts. For good cause shown and upon leave of Court only additional interrogatories may be propounded to the extent authorized by leave of Court.

**C. Answers and Objections.** Answers or objections to interrogatories under T.R. 31 or 33 shall set forth in full the interrogatories being answered or objected to immediately preceding the answer or objection.

**D. Time To Serve.** All written discovery, whether directed to a party or nonparty to an action, must be served at least thirty-three (33) days prior to the expiration of any discovery deadline which may be established by the Court, unless leave of Court directing otherwise is granted prior to the service of such discovery.

**E. Limit on Requests for Admissions.** Requests for Admissions are limited to thirty (30) in number (not counting requests related to the authenticity of a document). Leave of court may be granted allowing for the service of more than thirty (30) Request for Admissions provided the moving party fully complies with TR 26(F) and files a motion setting forth the proposed additional Requests and why they are necessary.

**F. Discovery Disputes.** Strict compliance with TR 26 -37 is required. The discovery process is intended to be largely self-actuating, with minimal Court supervision. Therefore, the Court will not rule on motions related to discovery disputes unless the moving party represents that after personal or telephonic conference in a good faith effort to resolve their discovery differences, the parties are simply unable to reach an agreement. If a party to the action (including “nonparties”) advises the Court, by way of motion or response that the opposing party has refused or delayed resolution of the discovery dispute, the Court may, after hearing, impose appropriate sanctions.

**G. Motion to Strike.** A Motion to Strike specific interrogatories as excessive, oppressive, or repetitive, may be filed after fully complying with TR 26(F). Such a motion shall not serve to extend the time for answering interrogatories which are not in dispute.

#### **LR89-TR55-~~005~~006 DEFAULT JUDGMENT**

Upon the proper filing of a motion for default judgment pursuant to Trial Rule 55, the Court may enter default and may either: 1) enter default judgment in the amount requested if supported by proper accompanying pleadings (Affidavit of Indebtedness, etc.); or 2) set the matter for damages hearing. In the event the Court sets the matter for damages hearing, the moving party may file any Affidavit (of indebtedness or otherwise) in support of its claim for damages or judgment if said party has not already done so. In the event the Court sets the matter for damages hearing, it is not necessary that the moving party or such party’s counsel attend the damages hearing. If the nonmoving party does not appear or appears and does not contest the damage or judgment amount requested, and the amount requested is supported by proper accompanying pleadings filed by the moving party, the Court may enter judgment in the amount requested. If the amount of damages or judgment is contested at the damages hearing the Court will then set the matter for further hearing at a later date and further evidence may be presented.

#### **LR 89-TR56-~~006~~007 MOTIONS FOR SUMMARY JUDGMENT**

All Trial Rule 56 Motions for Summary Judgment shall be filed at least one hundred fifty (150) days prior to trial.

#### **LR89-TR37-~~007~~008                    SANCTIONS CONTEMPT**

If a party who has been properly served fails to appear at a contempt hearing, the Court shall not proceed but shall, upon request by the moving party, cause to issue a Rule To Show Cause Order ordering the non-moving party into court to answer as to why he/she failed to appear and why he/she should not be held in contempt of court. If the non-moving party again fails to appear in court as ordered after being properly served with the Rule To Show Cause Order, a Writ Of Body Attachment may be issued for the non-moving party.



**LR89-TR73-008009****ORAL ARGUMENT**

The granting of a motion for oral argument, unless required by the Indiana Rules Of Procedure, shall be discretionary with the Court.

**LR89-TR40-009010****TRIAL READINESS CERTIFICATE (TRC)**

*This Rule is intentionally left blank.*

**LR89-TR16-010011****PRE-TRIAL PROCEDURE****A. Setting of Pre-Trial Conference**

1. *Jury Trials.* In those cases where a jury has been requested, an Agreed Case Management Order is required and hearings will be scheduled consistent with LR89-TR40-011.
2. *Bench Trials.* In those cases to be tried to the court, a preliminary pre-trial conference will not be set unless requested by a party or otherwise ordered by the court. Final pre-trial conference shall be set approximately thirty (30) to forty-five (45) days prior to the trial date as arranged by the Court. Additionally, a court may require an Agreed Case Management Order pursuant to LR89-TR40-011, in which case hearings shall be scheduled consistent with said Rule.

**B. Filing of Pre-Trial Statements**

At least forty-eight (48) hours prior to both the preliminary and the final pre-trial conferences, counsel for each party shall file Pre-Trial Statements which shall include all matters deemed important to the trial of the cause, but must include all information set forth in Paragraph “C” below.

**C. Form of Pre-Trial Statement**

The pre-trial statement shall contain the following statements in separate numbered Paragraphs as follows:

1. JURISDICTION. Setting forth the basis of jurisdiction.
2. STATUS OF RECORD. Setting forth the pleadings raising the issues.
3. PENDING MOTIONS AND OUTSTANDING DISCOVERY. Setting forth the motions or other matters requiring action by the Court and a concise statement as to the status of discovery.
4. STATEMENT OF POSITION. Setting forth a concise statement as to each party’s position.
5. STIPULATIONS. Setting forth a concise statement of stipulated facts.
6. ISSUES OF FACT. Setting forth a statement of the issues of fact which remain to be litigated at trial.

7. ISSUES OF LAW. Setting forth a concise statement of the issues of law on which there is agreement and which remain to be litigated at trial.
8. EXHIBITS. Setting forth each exhibit which shall be presented at trial.
9. AMENDMENTS TO PLEADINGS. Setting forth a concise statement as to whether or not there are any amendments to the pleadings.
10. PROBABLE SETTLEMENT. Setting forth a concise statement as to settlement negotiations and the likelihood of settlement.
11. PROBABLE TRIAL TIME. Setting forth a concise statement as to the anticipated length of trial.
12. LIST OF WITNESSES. Setting forth a numbered list of trial witnesses which shall include each witness's address. Expert witnesses shall be so designated.

**D. Failure to File Pre-Trial Statement**

In the event either party should fail to timely file a Pre-Trial Statement as required by this Rule, the Court shall have the right to cancel the pre-trial conference and/or the trial or to enter appropriate sanctions against the party failing to file such Pre-Trial Statement.

**E. Preliminary Pre-Trial Conference**

The primary purposes of the preliminary pre-trial conference are to determine whether or not the case is ready to proceed to trial by jury as scheduled and to determine the procedure to prepare the case for trial. Once a case is determined at the preliminary pre-trial conference to be ready to proceed to jury trial as scheduled, a continuance of such date will not be granted except for extraordinary circumstances which were not reasonably foreseeable at the preliminary pre-trial conference. Such reasons shall not include the need to file further pleadings or motions, pursuing or completing further discovery, securing attendance of any witness or party, or any other reasonably foreseeable reason.

**F. Final Pre-Trial Conference**

The primary purpose of the final pre-trial conference are to determine the procedure to prepare the case for trial and to discuss these matters set out in Rule 16 of the Indiana Rules of Trial Procedure.

**G. Attendance By Trial Counsel Required**

The primary purpose of the final pre-trial conference is to determine the procedure to prepare the case for trial and to discuss these matters set out in Rule 16 of the Indiana Rules of Trial Procedure. Therefore, attorneys shall appear in person for such hearings except by leave of court under extreme circumstances. The lead attorney expected to try the case shall be personally present at the pre-trial conference.

## **H. Pre-Trial Order**

Following the pre-trial conference, a pre-trial order shall be entered in compliance with Rule 16 of the Indiana Rules of Trial Procedure.

## **I. More Than One Pre-Trial Conference**

If necessary or advisable, the Court may adjourn the pretrial conference from time to time or may order additional Pre-Trial Conferences as it deems appropriate.

## **LR89-TR40-011~~011~~<sup>012</sup> CASE MANAGEMENT CONFERENCE & ORDER AND SETTING OF PRE-TRIAL AND TRIAL DATES**

### **A. Mandatory Case Management Conference**

A case management conference shall be required in all cases where a jury trial is requested and in all cases designated as CT or MI.

### **B. Discretionary Case Management Conference**

A case management conference may be ordered in any other case upon the filing of a motion by any party or on the court's own motion.

### **C. Conference Procedure**

Within one hundred twenty (120) days of the filing of a Complaint in those cases where a case management conference is mandatory, or within thirty (30) days after otherwise being ordered to participate in a case management conference, ~~the~~ Plaintiff shall arrange a meeting of all parties for the following purposes:

1. *List of Witnesses.* Exchange preliminary lists of witnesses known to have knowledge of the facts supporting the pleadings. The parties shall thereafter be under a continuing obligation to advise opposing parties of other witnesses as they become known. The parties shall establish a date by which any testifying expert witness must be disclosed.
2. *Documents.* Exchange all documents which are contemplated to be used in support of the pleadings. Documents later shown to have been reasonably available to a party and not exchanged may be subject to exclusion at the time of trial.
3. *Other Evidence.* Exchange any other evidence reasonably available to obviate the filing of unnecessary discovery motions.

4. *Mediation and Settlement.* Discuss the likelihood of settlement of the action and the date, if any, by which mediation shall occur.
5. *Discovery Schedule.* Agree upon a schedule for all discovery including a date by which discovery shall be finalized and completed.
6. *Complicated Case.* Discuss whether the action is sufficiently complicated so that additional conferences may be required.
7. *Additional Parties.* Discuss the date by which any motion to join additional parties must be filed.
8. *Pre-Trial Motions.* Discuss and agree upon the dates by which any motions to dismiss, motions for summary judgment, and other motions shall be filed. It shall not be necessary to include the date for filing motions in limine as motions in limine are to be filed at least fifteen (15) days prior to trial pursuant to LR89-TR-006.
9. *Anticipated Trial Readiness Date.* Discuss the date by which the parties reasonably anticipate the case will be ready for trial.
10. *Estimated Length of Trial.* Discuss the length of time the parties reasonably anticipate the trial will take to complete.

*Commentary*

*The court views the obligation of reasonably advancing cases on the courts' dockets to be an obligation that is mutually shared among all parties and their counsel. However, when these Rules or an issued court order require or contemplate that the parties or their counsel shall meet and confer prior to a particular court proceeding (such as a case management conference), unless otherwise stated in any such order, the court expects that the plaintiff or petitioner will take the lead in coordinating such meetings.*

**D. Case Management Order Plan**

Within ten (10) days after meeting, but, in any event, within one hundred eighty (180) days of filing the Complaint, ~~those attending~~ the parties to the action ~~are to~~ shall file an Agreed Case Management Order Plan setting forth:

1. The likelihood of mediation and settlement;
2. A detailed schedule of discovery for each party, including an agreed upon date by which discovery shall be completed and finalized;
3. A limitation on the time to join additional parties and to amend the pleadings;

4. A limitation on the time to file all pre-trial motions, excluding motions in limine;
5. A preliminary estimate of the time required for trial;
6. The date by which the parties reasonably anticipate the case will be ready for trial;  
~~and~~
7. ~~Any other matters which the parties believe may be helpful to the Court.~~ A date by which mediation shall be completed; and,

8. A date by which preliminary witness and exhibit lists shall be exchanged and filed, including the date by which expert and/or skilled witnesses shall be disclosed if different from the date by which other witnesses must be disclosed.

For the dates by which Motions For Summary Judgment, Motions In Limine, Objections to Motions In Limine, proposed Jury Instructions, and Objections To Proposed Jury Instructions, must be filed please refer to these Local Rules of Civil Procedure.

#### **E. Setting of Pre-Trial and Trial Dates In Cases Where Jury Requested**

Upon the filing of an Agreed Case Management Order ~~Order~~ Plan pursuant to this Rule, which is thereafter approved by the court, preliminary pre-trial, pre-trial, and trial dates shall be set by the Court. The preliminary pre-trial conference shall be set approximately six (6) months prior to the scheduled trial date with the final pre-trial conference scheduled approximately thirty (30) to forty-five (45) days prior to the scheduled trial date. At the preliminary pre-trial conference, all counsel shall be prepared to discuss whether the case remains ready to proceed to trial.

In the event that a court requires an Agreed Case Management Order in a case to be tried to the court, hearings will also typically be scheduled consistent with this Rule.

### **LR89-TR16-012013 MOTIONS IN LIMINE, JURY INSTRUCTIONS, AND JUROR QUESTIONNAIRE**

#### **A. Motions in Limine**

Any Motion in Limine shall be filed so that it is actually received by the Court at least fifteen (15) days prior to trial, or longer as the Court may order.

## **B. Objections to Motions in Limine**

Objections to any Motions In Limine shall be submitted to the Court in writing and shall be ~~submitted~~ filed so that it is actually received by the Court at least seven (7) days prior to trial. Written objections shall be numbered and shall specify distinctly and with clarity the objectionable matter to the Motion in Limine. Each objection shall be accompanied by citations of authority.

## **C. Agreed Upon Fact Instruction**

Counsel shall ~~submit to the Court~~ file an agreed upon fact Instruction so that it is actually received by the Court at least fifteen (15) days prior to trial, or longer as the Court may order.

## **D. Proposed Jury Instructions**

Counsel may ~~submit~~ file proposed jury instructions ~~to the Court~~, provided that such instructions are actually received by the Court at least fifteen (15) days prior to trial, or longer as the Court may order. Instructions covering matters occurring at the trial which could not reasonable be anticipated may be tendered and/or substituted at the conclusion of the trial. Each proposed instruction shall be accompanied by citations of authority.

## **E. Objections to Proposed Jury Instructions**

Written Objections to proposed jury instructions may be ~~submitted to the Court~~ filed in writing and shall be ~~submitted~~ filed such that they are actually received by the Court at least seven (7) days prior to trial. Written objections shall be numbered and shall specify distinctly and with clarity the objectionable matter in the proposed instruction. Each objection shall be accompanied by citations of authority.

## **F. Juror Questionnaires**

In all cases to be tried to a jury, the Juror Questionnaire Form utilized by the court shall be used unless all parties consent to a proposed juror questionnaire which shall be tendered jointly and shall actually be received by the Court at least fifteen (15) days prior to trial, or longer as the Court may order. Any such proposed Questionnaire remains subject to approval of the Court. In no cases shall a proposed juror questionnaire be in excess of a single two-sided typed 8½x11 page without leave of the Court.

## **LR89-AR1-013014 RANDOM FILING OF CIVIL CASES**

In order to provide for an even distribution of judicial workload and to ensure that the difference in utilization between any two courts of record in Wayne County does not exceed 0.40 points, based on the weighted caseload (WCL) measures system, the Wayne Circuit Court, Wayne Superior Court No. 1, Wayne Superior Court No. 2, and Wayne Superior No. 3 hereby adopt the following filing procedure for civil cases filed in Wayne County as follows:

1. All small claims (SC) cases shall be filed in Wayne Superior Court No. 3.
2. All Child In Need Of Services (JC) cases, Juvenile Delinquent (JD) cases, Termination of Parental Rights (JT) cases, Juvenile Status (JS) cases, and Guardianship cases arising out of a JC or JD (GU), shall be filed in Wayne Superior Court No. 3.
3. Agreed upon adoption (AD) cases arising out of a JC or JT case shall be filed in Wayne Superior Court No. 3.
4. All mental health (MH) cases shall be filed in a random and equal manner in Wayne Circuit Court, Wayne Superior Court No. 1, or Wayne Superior Court No. 2.
5. All Petitions seeking expungement or related relief under I.C. 35-38-5-1 et seq., I.C. 31-39-8-1 et seq. (juvenile expungement), or I.C. 35-38-9-1 et seq. and assigned a Civil Miscellaneous (MI) case number, shall be filed as follows:
  - a. Relief sought from conviction/disposition/adjudication in only one (1) prior case shall be filed in the court that originally entered judgment of conviction and entered sentencing or otherwise adjudicated or disposed of the case; and,
  - b. Relief sought from conviction/disposition/adjudication in more than one (1) prior case shall be filed in the court that entered the most recent judgment of conviction and entered sentencing or otherwise adjudicated or disposed of the case.
6. All other civil cases including, but not limited to, Civil Plenary (CP before 1/1/2002, now PL), Mortgage Foreclosure (MF), Civil Collections (CC), Civil Tort (CT), Domestic Relations (DR), Reciprocal Support (RS), Adoptions (AD) not otherwise filed in Wayne Superior Court No. 3 pursuant to Paragraph 3 above, Probate Supervised (ES), Probate Unsupervised (EU), Guardianships (GU) not arising out of a JC or JD, Trusts (TR), Protective Orders (PO), and Civil Miscellaneous (MI), excluding expungement related cases which are provided for in Paragraph 5 above, shall be filed in a random and equal manner in Wayne Circuit Court, Wayne Superior Court No. 1, or Wayne Superior Court No. 2. All tax sale cases shall be filed in the Wayne Superior Court No. 2.
7. The judges of the Wayne Circuit Court, Wayne Superior Court No. 1, and Wayne Superior Court No. 2 shall periodically review the filing patterns of civil cases and the Judges of such courts reserve the right to transfer cases in the event of a disproportionate distribution of cases in order to balance the caseload and expedite dispositions of all pending civil cases.

## **LR89-TR79-014~~015~~ SPECIAL JUDGE SELECTION IN CIVIL CASES**

When the appointment of a special judge is required under Trial Rules 76 or 79 of the Indiana Rules of Trial Procedure, the provisions of this Rule constitute the exclusive local manner for the selection of special judges in circuit and superior courts in all civil and juvenile proceedings in Wayne County. The parties may agree to the selection of a special judge in accordance with the provisions of Trial Rule 79(D) of the Indiana Rules of Trial Procedure. Absent such an agreement, the Clerk of the Wayne Circuit and Superior Courts shall assign a successor judge from the remaining Wayne County judges by random selection until no Wayne County Circuit or Superior Court judge remains. If no Wayne County Circuit or Superior Court judge qualifies as special judge, the Clerk shall assign a special judge, in sequence, from the following list of judges, all of whom are within the administrative district within which Wayne County is a part, as set forth in Administrative Rule 3(A), or are from a contiguous county and have agreed to serve as special judge in the courts of Wayne County where the case is pending:

1. The presiding Judge of the Fayette Circuit Court;
2. The presiding Judge of the Fayette Superior Court;
3. The presiding Judge of the Franklin Circuit Court No. 1;
4. The presiding Judge of the Franklin Circuit Court No. 2;
5. The presiding Judge of the Randolph Circuit Court;
6. The presiding Judge of the Randolph Superior Court;
7. The presiding Judge of the Rush Circuit Court;
8. The presiding Judge of the Rush Superior Court; and
9. The presiding Judge of the Union Circuit Court.

The Clerk shall maintain such records as necessary to assure that selections are rotated in the above sequence.

## **LR89-TR00-015~~016~~ ATTORNEYS FEES IN CIVIL CASES**

### **A. General Provisions**

RULE 1.5 of the Rules of Professional Conduct adopted by the Supreme Court of Indiana shall govern the awarding of attorneys fees in civil actions. All fees charged by attorneys must be reasonable. Factors which the Wayne Circuit and Superior Courts will consider in determining attorney fee awards in civil cases include:

1. The time and labor required, the novelty and difficulty of questions involved, and the skill requisite to perform the legal service properly;
2. The likelihood, if apparent to the client, that the acceptance of the particular employment will preclude other employment by the lawyer;
3. The fee customarily charged in the locality for similar legal service;
4. The amount involved and the results obtained;



5. The time limitations imposed by the client or by the circumstances;
6. The nature and length of the professional relationship with the client;
7. The experience, reputation and ability of the lawyer or lawyers performing the services.

Attorneys' fees are to be based upon those factors as set forth above and other relevant factors. At the appropriate time in the proceeding, attorneys shall submit a Verified Affidavit in support of the request for attorneys fees setting forth: facts in support of such request; a detailed list of the services and time expended on the matter to date; the amount of time expected to be expended in the future through to completion, including collection; the attorney's customary and usual hourly fee; and all other relevant facts in support of the request. All fees, if any, shall be awarded at the time of Judgment and not at a future date unless authorized specifically by statute.

## **B. Mechanics Liens**

In cases involving mechanics liens, the Court will find as reasonable attorney fees, unless there is evidence to the contrary, the following:

- to \$1,500.00 for the first \$10,000.00 of judgment (or any portion thereon);
- to 5% of the next \$15,000.00;
- to 3% of the next \$25,000.00;
- to 1-1/2% of the next \$50,000.00;
- to 1% of the next \$150,000.00;
- to 1/2% of everything over \$250,000.00.

The above fees shall include conferences with client, preparation of notices, complaint and summons, obtaining judgment, and reasonable collection efforts. In instances where additional fees are requested, the attorney shall file a Verified Petition/Affidavit which details the services and times expended thereon and includes those matters referred to in Rule 1.5 of the Rules of Professional Conduct.

## **C. Other Written Instruments Including Leases, Notes, and Contracts**

In all cases where instruments provide for attorney fees, or such fees are provided for by statute, except real estate mortgage foreclosure and mechanics liens, the Court will find as reasonable attorneys fees, unless there is evidence to the contrary, the following:

| <b>Amount of Debt</b> | <b>% fee to be awarded</b> |
|-----------------------|----------------------------|
| The first \$3,000.00  | 33-1/3%                    |
| The next \$10,000.00  | 17%                        |
| The next \$12,000.00  | 8%                         |
| Excess of \$25,000.00 | 3%                         |

The above fees shall include conferences with client, preparation of notices, complaint and summons, obtaining judgment, and reasonable collection efforts. In instances where additional fees are requested the attorney shall file a Verified Petition/Affidavit which details the services and times expended thereon and includes those matters referred to in Rule 1.5 of the Rules of Professional Conduct.

## **LR89-TR00-017**                      **SPECIAL RULES FOR TAX SALE CASES**

### **A. Court Where Tax Sale cases To Be Filed**

All Wayne County Tax Sale cases shall be filed in Wayne Superior Court No. 2.

### **B. Tax Sale Appearance.**

In addition to that information required by TR 3.1, each person seeking any relief regarding property sold at a tax sale shall provide the following information as to the subject parcel of real estate:

1. Parcel number;
2. Tax sale Certificate number;
3. Street Address and brief legal description of the parcel's location.

### **C. Title Search Required**

Pursuant to I.C. 6-1.1-25-2(e), any person who has purchased property at a Wayne County Tax Sale must obtain a title search from a title insurance company authorized and licensed to do business in the State of Indiana by no later than one hundred eighty (180) days after the tax sale.

### **D. Copy Provided to the Court**

A Petition for Tax Deed shall be accompanied by a copy of the Title Search required above.

### **E. Documents to County Attorney**

Any motion, objection, or petition filed to pursue an interest in land arising from a tax sale shall be provided to the Wayne County Attorney.

### **F. Administrative Case Number**

The Court shall open a Court Business (CB) case number for any proceedings regarding objections, petitions for tax deed, surplus funds, and the like, requested or conducted regarding a specific parcel. The Court shall inform the parties of the Administrative Case Number by way of official court notice. This number shall **be in addition to** the MI case number assigned.

Once the parties are notified of the CB case number as required above, **both** the MI and CB case numbers **shall** be included in the caption of all pleadings and documents filed regarding a particular parcel.

**G. Responsibilities of the Purchaser At Tax Sale**

1. The relevant statutes that involve Tax Sales can be found online at <http://iga.in.gov/legislative/laws>.

2. The Purchaser, whether represented by counsel or as a *pro se* litigant, is solely responsible for compliance with each provision of the Indiana Code, including all required notices to the owner(s) of record.

3. Suggested Forms for Use of Notice of Filing of Petition For Tax Deed

While not required by law, the Wayne County Courts suggest use of the following form of Notice of Filing of Petition For Tax Deed:

(1)

Person Receiving Notice:

Address:

**Notice of Filing of Petition For Tax Deed**

Pursuant to the provisions of Indiana Code 6-1.1-25-4.6, as the owner of the real property described below OR a person with a substantial property interest of public record in the real property described below, you are **HEREBY NOTIFIED** of the following information.

This Notice involves the tract or real property described below:

**Parcel Number:**

**Tax Sale Certificate Number:**

**Street (Common) Address For Parcel:**

**Brief Legal Description:**

The above-described tract or real property was sold by the Treasurer of Wayne County on the date of sale which was: Month \_\_\_\_\_.

\_\_\_\_\_, Date \_\_\_\_\_, Year \_\_\_\_\_, for delinquent  
taxes and/or special assessments, subject to the right of redemption.

**The time period for redemption has expired.** The tract or real property  
was **NOT** redeemed from the tax sale before the expiration of the period of  
redemption.

\_\_\_\_\_  
**The Purchaser, \_\_\_\_\_, on or after the**  
**\_\_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_\_ intends to**  
**file a Verified Petition To Issue Tax Deed in the Wayne Superior Court**  
**No. 2 under Case Number 89D02- \_\_\_\_\_ -MI- requesting**  
**that the Wayne County Auditor be ordered to issue a Tax Deed for the**  
**following described real property located in Wayne County, Indiana.**

\_\_\_\_\_  
Any person owning or having an interest in the tract or real property may file  
a written objection to the Verified Petition To Issue Tax Deed with the Court  
not later than thirty (30) days after the date such Petition is filed. If a proper,  
written objection is timely filed, the Court shall conduct a hearing on the  
objection.

**Purchaser's Contact Information:**

**Dated:** \_\_\_\_\_

(2)

\_\_\_\_\_  
Person Receiving Notice: \_\_\_\_\_

\_\_\_\_\_  
Address: \_\_\_\_\_

**Notice of Right of Redemption From Tax Sale**

\_\_\_\_\_  
Pursuant to the provisions of Indiana Code 6-1.1-25-4.5, as the owner  
of the real property described below OR a person with a substantial property  
interest of public record in the real property described below, you are  
**HEREBY NOTIFIED** of the following information.

This Notice involves the tract or real property described below:

**Parcel Number:** \_\_\_\_\_

**Tax Sale Certificate Number:** \_\_\_\_\_

**Street (Common) Address For Parcel:** \_\_\_\_\_

**Brief Legal Description:**

The above-described tract or real property in Wayne County, Indiana was sold by the Wayne County Treasurer for delinquent taxes and/or special assessments, on the date of sale which was: Month \_\_\_\_\_, Date \_\_\_\_\_, Year \_\_\_\_\_, subject to the right of redemption.

The tract or real property **has not** been redeemed. Any person may redeem the tract or real property by paying the redemption amount to the Wayne County Treasurer. The right to redeem the property expires on the expiration date, the same being the \_\_\_\_\_ day of \_\_\_\_\_, 2016. The components of the \_\_\_\_\_ amount required to redeem the tract or real property include:

1. One Hundred Ten percent (110%) of the **minimum bid**, \$ \_\_\_\_\_, if the tract or item of real property is redeemed not more than six (6) months after the date of sale; **OR** One Hundred Fifteen percent (115%) of the minimum bid if the tract or item of real property is redeemed more than six (6) months but not more than one (1) year after the date of sale;

2. The amount by which the purchase price exceeds the **minimum bid**, if any, \$ \_\_\_\_\_, on the real property plus Five percent (5%) per annum on the amount by which the purchase price exceeds the minimum bid on the property from the date of sale to the date of redemption;

3. All taxes and special assessments upon the property paid by the purchaser or purchaser's assignee after the sale plus Five percent (5%) interest per annum on those taxes and special assessments;

4. Attorney fees and costs of giving notice under I.C. 6-1.1-25-4.5; and,

5. Costs of a Title Search (reduced by any amounts held in the name of the taxpayer in the tax sale surplus fund).

The purchaser or purchaser's assignee is entitled to reimbursement for additional taxes or special assessments on the tract or real property that were paid by the purchaser or purchaser's assignee subsequent to the sale, lien acquisition, or purchase of the certificate of sale and before redemption, plus interest. The purchaser or purchaser's assignee is entitled to reimbursement for costs described in I.C. 6-1.1-25-2(e). The total amount required for redemption includes all taxes, special assessments, interest, penalties, and fees on the property that accrued and are delinquent after the sale.

The total amount of money required for the redemption of the tract or real property is calculated by the formula set out in I.C. 6-1.1-25-2. You may contact the Wayne County Auditor located in the Wayne County Administration Building, 401 East Main Street, Richmond, Indiana 47374 or by telephone at 765-973-9317 for the exact amount required for redemption, or for further information regarding this sale.

The Purchaser, \_\_\_\_\_, intends to file a  
Verified Petition To Issue Tax Deed in the Wayne Superior Court No. 2, on or  
after the redemption expiration date which is \_\_\_\_\_ (Month),  
\_\_\_\_\_ (Day), \_\_\_\_\_ (Year) for such tract or real  
property. The purchaser or purchaser's assignee is entitled to receive a deed for the  
tract or real property if it is not redeemed before the expiration of the period of  
redemption. If this tract or real property is not redeemed and a tax deed is issued, YOU,  
as the owner of record at the time the tax deed will be issued, MAY have a right to the  
tax sale surplus, if any.

**Purchaser's Contact Information:**

**Purchaser's Contact Numbers (Home, Cell, Work):**

**Dated:**

# WAYNE COUNTY LOCAL RULES OF FAMILY LAW

*Adopted By Wayne County Bar Association, Originally Effective October 30, 1997  
Including All Amendments, Approved Effective July 15, 20156*

## LR89-FL00-1 SCOPE AND TITLE

- A. **Scope.** These Rules shall govern the procedure and practice of all family law and domestic relations matters in the Wayne Circuit and Superior courts unless otherwise provided by law or rules of the Supreme Court of Indiana. These Rules are in addition to and are not intended to replace the Wayne County Local Civil Rules of Court. In the event of a conflict in a family law or domestic relations matter, the Wayne County Family Law Rules shall apply.
- B. **Title.** These Rules shall be known as the Wayne County Rules of Family Law and shall be cited as LR89-FL00-1, et. seq.

## LR89-FL00-2 ADMINISTRATIVE PROCEDURES

- A. **Advice of Time Required.** Parties shall advise the Court in the text of any preliminary or contempt petition if the matter cannot be heard on the regularly scheduled docket and shall provide an estimate of the time required in the event that more than fifteen minutes is necessary.
- B. **Summary Hearing.** All issues and evidence relevant to a preliminary hearing may be presented in summary fashion by each party, or by counsel, if represented. Summary provisional hearings are set in fifteen minute intervals.
- C. **Copies of Decree Required.** When submitting a Final Decree and Property Settlement, the parties shall submit sufficient copies of each for the Court to retain an original and copy of each and provide copies to all counsel of record.
- D. **Bench Warrant.** In order to obtain a bench warrant from the Court, a party must have personal service on the adverse party and complete a bench warrant on copy service with sworn testimony confirming actual notice to the adverse party.
- E. **Summons and Notice.** In all relevant family law matters, the petitioner shall use the form of Summons and Notice set forth in Appendix A.
- F. **Notifications.** In all relevant family law matters, an instruction sheet on *Parenting Together to Keep Kids First* and a cooperation notice sheet regarding cooperation in family law cases are included with the Summons and Notice set forth in Appendix A and provided to *pro se* filers. The green notice sheet is set forth in Appendix D.

**LR89-FL00-3****SPECIFIC DISCLOSURE REQUIREMENTS**

Prior to any preliminary hearing or within thirty days after service of any petition seeking relief in any family law matter, whichever shall first occur, each party shall provide the Court and the opposing party with written notice of any other pending legal proceeding in which such person is a party wherein the other pending legal proceeding involves an issue or allegation of domestic violence, spousal abuse, child abuse, protective order, restraining order, Child(ren) in Need of Services, Termination of Parent-Child Relationship, Juvenile Delinquency, or any criminal charges. The written notice should include the cause number of the legal proceeding, identification and location of the Court, names of the parties involved, and a brief summary of the nature of the legal proceeding.

**LR89-FL00-4****COOPERATION IN FAMILY CASES****A. Liberal Construction and Application.**

1. The Courts of Wayne County are committed to a cooperative model for the handling of family cases by parents, attorneys, and judges. This Rule will be liberally construed and applied to serve the healthy and child-sensitive functioning of families.
2. "Family cases" are defined as all marital dissolution or separation, paternity, and guardianship.
3. The adoption of this Rule is not intended to affect lawyers' duty to act with reasonable diligence and promptness in representing a client. See Indiana Rule of Professional Conduct 1.3 and its commentary.

**B. Case Captioning.**

1. Parties in marital dissolution and separation and paternity cases shall not be captioned or designated as "petitioner," "respondent," "plaintiff," or "defendant."
2. In marital dissolution and separation cases where the parties have one or more children under the age of nineteen on the date of the initial filing, all pleadings shall be captioned, "In Re The Marriage of \_\_\_\_\_, Father [or Mother], and \_\_\_\_\_, Mother [or Father]." The party filing the initial petition shall be named first.
3. In marital dissolution and separation cases without children under the age of nineteen of the initial filing, all pleadings shall be captioned, "In Re The Marriage of \_\_\_\_\_, Wife [or Husband], and \_\_\_\_\_, Husband [or Wife]." The party filing the initial petition shall be named first. Following dissolution, parties without children shall be captioned and designated "former husband" and "former wife."



4. Parties in paternity cases shall be captioned and designated as “mother,” “putative father,” and “father.”

**C. Duties of Attorneys and Parties in Family Cases.**

1. Attorneys and parties in family cases shall be responsible to act with the Courts as co-problem solvers, not mere problem reporters.
2. The Courts expect all parties and attorneys to consistently observe:
  - a. personal responsibility by acting on one’s own opportunities to solve problems and improve circumstances rather than merely reporting on the alleged fault in others,
  - b. cooperation by sensibly defining and pursuing the best interests of all family members,
  - c. courtesy by constant observance of respectful language and behavior, and
  - d. focused attention on children’s needs including an awareness that parent conflict is gravely dangerous to children.
3. Attorneys appearing in family cases shall (a) furnish their family clients with a copy of this Rule and (b) assist them in fully understanding and observing its provisions.

**D. Website Work.**

1. In marital dissolution and separation cases, parents with one or more children under the age of nineteen (19) years on the date of their initial petition shall complete the website work on [www.UpToParents.org](http://www.UpToParents.org) and shall take their completed work to the parenting class required under LR89-FL00-8, any and all case-related appointment, court hearing, mediation, or the like. The Judge, in his or her complete discretion, may waive completion of such website work or the class referred to at LR89-FL00-8. Parents open to the possibility of reconciliation may substitute the work from [www.WhileWeHeal.org](http://www.WhileWeHeal.org).
2. In actions where the IV-D Prosecutor’s Office brings an original action to establish paternity or for child support and/or medical support, and other juvenile paternity original actions involving child support, child custody, or medical, parents shall complete the website work on [www.ProudToParent.org](http://www.ProudToParent.org) and shall take their completed work to any and all case-related appointment, court hearing, parenting class, mediation, or the like. The Judge, in his or her complete discretion, may waive completion of such website work.
3. Parents shall merge their chosen Commitments from their website work into a set of Agreed Commitments, review those Agreed Commitments, and take copies of them to any hearing or other case-related appointment.

4. The website work and class shall be completed promptly but within forty-five days of the filing of the Petition, unless leave of court is granted.

5. The Agreed Commitments and other result generated as a result of the website work shall be inadmissible and unenforceable in the event litigation is required. The purpose of the website work is to generate a culture of co-parenting for the long-term benefit of families.

6. The Court for good cause shown may order a waiver of completion of the website work and class.

**E. Protocols for Motions and Hearings Involving Minor Children and Cooperation Update.**

1. In matters involving minor children, parties and counsel shall make every reasonable effort to resolve problems by reaching agreements that serve the best interests of all family members and should appear in court on contested matters only in rare circumstances after every reasonable effort to resolve problems has been made.

2. In matters already pending before the Court, except in instances where it would be dangerous or otherwise unreasonable to do so, counsel and parties without counsel shall use good-faith personal or telephonic consultation to resolve any issue before seeking relief from a court. In that mandatory consultation, counsel shall:

- a. attempt to resolve the matter at issue;
- b. discuss, and make a list of, the resources they believe the parents could use to resolve current and future issues and to build cooperation (separate lists shall be made if a joint list is not agreed on);
- c. if previously ordered by the Court, confirm that the parents (i) have completed the website work referred to in paragraph D, (ii) have merged their chosen Commitments into a set of Agreed Commitments, and (iii) will review and bring their Agreed Commitments and any other website work to any upcoming case-related appointment;
- d. confirm the date each parent completed the assigned parenting class; and
- e. discuss what the Court can do to assist the parents in reaching further agreements.

3. All motions filed by counsel and parties without counsel shall include a Cooperation Update separate and apart from the underlying motion which Cooperation Update shall be in the form and manner as prescribed by Appendix C of these Rules and shall, at a minimum, confirm compliance with each of the requirements in paragraph E(2) in addition to those matters set forth in Appendix C. The Cooperation Update may also

include additional matters that a party or counsel believes would be helpful to the Court in acting as a problem solver and generating a culture of co-parenting for the long-term benefit of families. A Cooperation Update is required in all cases designated as DR (domestic relations), JP (juvenile paternity), or RS (reciprocal support) involving child custody, child support, parenting time, insurance and/or health benefits for a child, tax dependency claims, and mental health and/or counseling for a child, including any request for a modification of such provisions or a finding of contempt with respect to such provisions.

4. To the extent that the filing date of a particular motion triggers certain rights and obligations, strict compliance with subsection E(2) may be excepted so long as the moving party indicates that a Cooperation Update is not included in said motion due to the importance of the filing date. In such cases, the moving party shall be required to comply with subsection E(2) and file a Cooperation Update within seven days of the date of filing.

5. Failure to comply with this section may result in the denial of relief or hearing until compliance is ensured.

6. Parents shall review and bring to every hearing a copy of their Agreed Commitments and current Parenting Planning Worksheet.

#### **F. Status Conferences.**

1. A status conference may be requested at any time, and one will ordinarily be scheduled by the Court for approximately sixty days after the filing of the initial petition for dissolution, for separation, for the establishment of paternity, and for modification, approximately sixty days after the finding of paternity. The moving party shall provide with his/her initial pleading a proposed Notice of Status Conference, leaving the date and time blank.

2. Any request for a status conference which is not the automatic sixty-day conference shall comply with subsection E(2) and contain a Cooperation Update. Said request shall further indicate the moving party's proposed agenda for such status conference.

3. The chief purposes of status conferences will be (a) for attorneys (and parties without attorneys) to report on progress in reducing conflict, building cooperation, preserving family relationships, and responding to the needs of the children, (b) for families, where required, to be referred for any necessary help, and (c) for attorneys (and parties without attorneys) to report on discovery issues.

4. Parties or their attorneys shall consult in advance of the status conference and present suggestions for the future course of the case that would serve the best interests of all family members.

5. Additional status conferences should be requested whenever parties or counsel believe they would be helpful in reducing conflict, building cooperation, preserving relationships, or protecting children.

**G. Additional Assistance to Families.**

1. At any time parties need resources to reduce conflict, build cooperation, preserve family relationships, or respond to the needs of their children, they and their attorneys, if any, should make arrangements to find the resources that could help them.
2. If parents nevertheless continue to have conflict and appear in court without an agreement about the resources they will use, the Court may select the resources the parents will be ordered to use.

**H. Requests for Trial Settings.**

1. Trial settings must be requested in writing in compliance with Wayne County Rule of Civil Procedure LR89-TR00-009. In addition to complying with the requirements of Wayne County Rule of Civil Procedure LR89-TR00-009, the trial setting request must give a detailed account of (i) all unresolved issues and (ii) what problem-solving resources (including counseling and mediation) the parties have used to reach cooperative agreements. Failure to comply with this section may result in the denial of a trial setting.

**I. Enforcement.**

1. This Rule and the enforcement thereof appear contradictory. However, the benefits of the overall concepts contained in this Rule, as well as the recognized and hoped long-term advantages of implementing such a process, render its enforcement of vital importance, as families in conflict do not always fit well into the mold of the traditional adversary system. Nevertheless, it must be recognized that an attempt to reshape the model within which family law cases have traditionally occurred will require, on occasion, the use of those enforcement mechanisms which do not fall within a model of cooperation.
2. Courts may use, at their discretion, the variety of enforcement mechanisms available, including but not limited to the award of attorney's fees and sanctions, available to them in the traditional system.

**J. Effective Date.**

1. This Rule shall apply to all filings, in both new and pending cases, as of the effective date of the entirety of these Rules.

***Commentary***

*Family cases of all sorts (see paragraph (A)(2)) must be handled in ways that reduce conflict, build cooperation between parents, and protect children. The Courts of Wayne County will expect parties and attorneys to give consistent attention to those ends and will liberally construe and apply this Rule to serve those ends.*

*This Rule provides nine measures to promote the cooperation necessary to serve the best interests of all family members involved in family cases.*

*Cases will be captioned and parties will be designated in ways that better convey everyone's duty of cooperation. Parents will be designated as "mother" and "father" (or in some paternity cases as "putative father"), never as "petitioner" or "respondent." See paragraph B.*

*Attorneys and parties will be expected to consistently observe personal responsibility, cooperation, courtesy, and focused attention on children's needs. See paragraph C.*

*Parties shall be referred for website work. See paragraph D.*

*In matters involving minor children, before filing motions or pleadings, attorneys are required to have a personal consultation on five matters: (a) an attempt to resolve by agreement the matter at issue; (b) a discussion of the resources parents could use to resolve current and future issues; (c) if ordered, confirmation that the parents have completed, and will bring to upcoming case-related appointments, their Agreed Commitments from their website work; and (d) confirmation of the parents' attendance at the parenting class. See paragraph E.*

*Counsel shall include a Cooperation Update on those five matters in their pleadings. See paragraph E.*

*Parties must bring their Agreed Commitments and Parenting Plan Worksheet to all case-related appointments. See paragraph E.*

*The Courts will hold status conferences to hear counsel's suggestions for helping families cooperate and function better. Parties without attorneys will also participate in status conferences. See paragraph F.*

*Requests for trial settings must be in writing and substantially comply with Wayne County Local Rule of Civil Procedure LR89-TR00-009. In addition to the requirements of said rule, the request must account for past and future problem-solving alternatives to trial.*

**A. In Non-Dissolution of Marriage Cases.** The Court shall have the discretion to hold provisional hearings in non-dissolution of marriage cases and may grant relief where appropriate.

**B. Child Support Worksheet.** All Motions for Provisional Order seeking child support or a modification thereof shall be accompanied by a proposed Child Support Obligation Worksheet.

**C. Cooperation.** In provisional motions which involve minor children accompanying an initiating pleading, strict compliance with LR89-FL00-4 is not required; however, the moving party shall make reasonable efforts at resolving all provisional issues with the non-moving party, whether or not represented by Counsel, after service of said initiating pleading and prior to the scheduled hearing.

**D. Time Allotted and Nature of Proceedings.** Provisional hearings shall be held in summary fashion and shall be scheduled in fifteen-minute increments, unless either party has indicated in his/her Motion for Provisional Hearing or Response thereto that additional time is required. Such indication that additional time is required further constitutes a waiver of the three-week scheduling requirement. Said proceedings shall be held in court chambers off the record. Either party may request in his/her Motion for Provisional Order that the proceedings be held on the record, which further constitutes a waiver of the three-week scheduling requirement. The Court shall have the discretion to grant or deny in whole or in part a request for an on-the-record evidentiary hearing exceeding fifteen minutes in length.

**E. Attorney's Fees.** Provisional attorney fees may be awarded based on the following factors:

1. The number and the complexity of the issues (e.g. custody dispute, complex asset valuation).
2. The nature and extent of discovery.
3. The time reasonably necessary for the preparation for or the conduct of contested preliminary matters or final hearings.
4. Other matters requiring substantial expenditure of attorneys' time.
5. The attorney's hourly rate.
6. The amount counsel has received from all sources.
7. The ability of the opposing party to pay the requested fees and the disparity of income between the parties.

**F. Preliminary Appraisal, Evaluator, and Accountant Fees.** Appraisal, evaluator, or accounting fees may be allocated based on the following factors:

1. Itemized list of property to be appraised or valued (e.g., Defined benefit pension, business interests, business real estate, furnishings, vehicles, etc.).
2. An estimate of the cost of the appraisals and the basis therefore.
3. The amount of a retainer required and the reason an expert is necessary.
4. Whether the parties agree to a specific appraiser, evaluator, or accountant.

**G. Provisional Child Support Orders.** There is hereby created a rebuttable presumption that provisional child support orders shall be made retroactive to the first Friday following the date of filing of a written request for a provisional child support order. Such presumption may be rebutted upon a showing that such retroactivity is inappropriate under the facts of a particular case.

**H. Exchange of Necessary Documentation.** At least seven days before the scheduled provisional hearing, the parties shall exchange documentation of all year-to-date income (usually satisfied by the party's three most recent paystubs), whether there are subsequently born children, documentation of an order or duty of support for prior born children, documentation of maintenance paid, documentation of work-related child care expenses, documentation of the weekly cost of health insurance for the minor children, and a proposed child support obligation worksheet.

**LR89-FL00-6**

**ORDERS EXCLUDING A SPOUSE FROM THE  
RESIDENCE**

**A. Eviction without Notice.** A Restraining Order without notice pursuant to Ind. Trial Rule 65 which would evict a spouse from the marital residence may be issued only upon the following bases:

1. Strict compliance with Ind. Trial Rule 65; and
2. There are alleged specific facts indicating more than a generalized fear of an adverse action; and
3. There is independent, corroborated evidence of actual or threatened physical abuse sufficient to find a risk of imminent danger; and
4. The moving party is physically available to testify unless there is a showing of exceptional circumstances precluding his or her availability; and
5. The moving party certifies to the Court the reasons supporting the claim why notice cannot be given.

In addition to the foregoing criteria, the Court may consider any other relevant social or economic factors including whether either party has a reasonable alternative residence pending hearing on the provisional motion(s). In those circumstances where the Court allows a party to be heard ex parte on the record and finds an emergency exists justifying issuance of an eviction order, the cause shall heard within ten days with notice to all parties. Such an order shall, by its own terms, terminate effective the date and time of the hearing, unless extended by the Court after hearing evidence thereon. Furthermore, such an order shall terminate at the expiration of ten days from the date of said order if no hearing is held prior thereto.

**B. Order.** If an Order granting exclusive possession of the marital residence to one spouse is entered by the Court without hearing under this Rule, such Order shall contain the following language: “The \_\_\_\_\_ is hereby restrained from entering marital residence located at \_\_\_\_\_ and the Wayne County Sheriff’s Department, Richmond Police Department, or other appropriate law enforcement agency shall use all reasonable force, including arrest, to remove a party from the premises upon presentation of such an Order.”

**C. Extraordinary Remedy.** Any orders issued ex parte hereunder shall be considered an extraordinary remedy and should be considered only in emergency circumstances.

#### **LR89-FL00-7**

#### **FINANCIAL DECLARATION FORM**

**A. Requirement.** In all relevant family law matters, including dissolution of marriage, separations, paternity, post-decree and support proceedings, each party shall prepare and exchange, respectively, within forty-five days of the initial filing of the action or within thirty days of the filing of any post-decree matters, a Financial Declaration Form (see Appendix B). These time limits may be extended or shortened by court order for good cause shown. With respect to post-decree modification actions, only Page 1 need be completed.

**B. Exceptions.** The Financial Declaration Form need not be exchanged if:

1. the parties agree in writing to waive exchange;
2. the parties have executed a written agreement which settles all financial issues;
3. the proceeding is one in which the service is by publication and there is no response;
4. the proceeding is post-decree and concerns issues without financial implications; provided, however, when the proceeding is a post-decree modification which necessarily implicates child support, this Rule shall still apply; or
5. the Court otherwise waives such requirement.

**C. Admissibility.** Subject to specific evidentiary challenges, the Financial Declaration Form shall be admissible into evidence.

**D. Supporting Documents.** For the purpose of providing a full and complete verification of assets, liabilities and values, each party shall attach to the Financial Declaration Form all information reasonably required and reasonably available. This shall include recent bills, wage and tax records, bank records, pension and retirement account information, and mortgage account records. The term “reasonably available” means that material which may be obtained by letter accompanied with an authorization, but such term does not mean material that must be subpoenaed or is in the possession of the other party. Appraisals of real estate or personal property, or pension valuations are not required. However, once an appraisal or valuation is obtained it must be exchanged. Further, the Court may direct that an appraisal or valuation be obtained, just as it may designate the appraiser or valuator. The Court may require either party to supplement the Financial Declaration Form with appraisals, bank records, and other evidence to support the values set forth in the Form.



**E. Financial Declaration – Mandatory Discovery.** The exchange of Financial Declaration Forms constitutes mandatory discovery. However, Indiana Trial Rule 37 sanctions do not automatically apply. In the event that a party does not timely submit his or her fully completed Financial Declaration Form and reasonable efforts have been made to informally resolve any such dispute, the party seeking compliance may file a Motion to Compel and [if desired] for Sanctions. If such Motion is granted, the Order shall set a deadline for compliance and schedule a hearing on potential sanctions. At said hearing, the Court may take into consideration the noncompliant party's compliance with the Order to Compel in determining whether to award sanctions to the moving party. Additionally, pursuant to Indiana Trial Rule 26(E)(2) and (3), the Financial Declaration Form shall be supplemented if information changes or is added or if additional material becomes available.

Any additional discovery such as Requests For Production, Interrogatories, or Depositions of the parties to the action shall not commence until the Financial Declaration Forms has been exchanged; provided, however, that if a party's noncompliance has resulted in the filing of a Motion to Compel, the moving party may move forward with additional discovery reasonably necessary to obtain the information sought. Any further discovery shall not seek to obtain information already obtained by the Financial Declaration Form.

**F. Privacy – Sealing Of Financial Declaration Form.** Whenever the interest of privacy so requires, the Court may, upon proper Motion, direct that the Financial Declaration Form(s) be sealed until further order of the court. However, such request(s) shall not be made as a matter of course. When ordered sealed, the Court Reporter shall place the Financial Declaration Form(s) in a flat manner in an envelope of sufficient size, seal the envelope, and affix a copy of the Order directing that the Financial Declaration Form(s) be placed under seal. Financial Declaration Form(s) may be withdrawn at the conclusion of the case on such terms as the Court may allow.

**G. Clerk To Provide Notice Upon Filing.** Upon the pro se filing of any family law matter referred to in LR89-FL00-7(A), the Clerk shall provide to the moving party upon filing a Notice of the requirement of this Rule. Such Notice shall be in a form substantially as follows: "You are advised that each party is required to provide to the other party or his or her legal counsel, if applicable, a fully completed Financial Declaration Form with all required attachments within forty-five days of the filing of such petition/motion or, in the case of a post-decree petition/motion, within thirty days.

You are further advised that copies of the Financial Declaration form may be obtained at the Clerk's Office, located on the Second Floor of the Wayne County Courthouse, 301 East Main Street, Richmond, Indiana. They may also be found online at [http://www.in.gov/judiciary/localrules/current/wayne-circuit-superior-\(family\)-032305.pdf](http://www.in.gov/judiciary/localrules/current/wayne-circuit-superior-(family)-032305.pdf).

Failure to timely provide a fully completed Financial Declaration Form with all required attachments may be result in sanctions being entered against the party failing to comply with this Rule."

**LR89-FL00-8****PARENTING CLASS**

**A. Attendance at Class.** Before final hearing is scheduled on a petition for Dissolution of Marriage, Petition for Legal Separation, or Petition to Establish Paternity in which the parties have minor children, each party must attend not less than one parenting class session as designated by the Wayne County Circuit and Superior Courts. The Wayne County Clerk of Courts shall distribute an informational flyer, provided to it by the judges, which discloses the name and location of the class, as well as the telephone number to call to schedule the class. Said flyer shall also provide for the cost and any prerequisite rules made by the moderator of such class.

**B. Certificate.** The moderator of each session will provide each attendee with a certificate of attendance, unless waived, which must be filed with the Court's Clerk prior to the Court's granting the Petition for Dissolution of Marriage or Petition for Legal Separation.

**C. Payment.** Each party is responsible for payment of the cost of that party's participation.

**D. Waiver.** In those limited circumstances where it is apparent that a party's compliance with this rule cannot be compelled or is otherwise unnecessary, upon written motion, the Court may grant a waiver of its application.

**E. Motion to Compel Attendance.** If one party has failed to attend the class as required, the complying party may file a Motion to Compel Attendance with the Court requesting that the Court enter an Order requiring the opposing party to attend the class by a date certain or be subject to contempt of Court. Appropriate sanctions may include, but shall not be limited to, attorney's fees, incarceration, or a finding that parenting time by said party might endanger the child(ren)'s physical health or significantly impair the child(ren)'s emotional development justifying a restriction on parenting time in accordance with Ind. Code 31-17-4-1 or Ind. Code 31-14-14-1.

**LR89-FL00-9****MEDIATION**

No final hearing regarding dissolution of marriage, modification, custody, child support, or parenting time which is anticipated to take more than thirty minutes of court time shall be set without the parties having first submitted a Notice to the Court (which may be incorporated in the Trial Readiness Certificate required under LR89-TR00-009) that they have engaged in mediation, either formal or informal, within the last six months regarding the matters to be set for hearing. "Formal mediation" is such mediation as contemplated by the Rules of Alternative Dispute Resolution.

"Informal mediation" is intended to include any face-to-face meeting between the parties, whether such meeting includes attorneys only or the involvement of the parties who may or may not be separated, depending on the circumstances. In the event the parties cannot agree as to a location for informal mediation, such informal mediation shall be conducted in Wayne County, Indiana. The Court shall have the discretion to order parties to formal mediation even if they have certified to the Court that informal mediation was unsuccessful.

## **LR89-FL00-10          PARENTING TIME ORDERS**

The phrase “reasonable parenting time,” if not specifically defined in the Court’s order, is defined as the parenting time schedule outlined in the Indiana Parenting Time Guidelines. Parenting time orders may be informally adjusted by agreement of the parties without Court order to accommodate the needs of the family; however, intended long-term formal modifications should, to protect all parties, be reduced to writing and submitted to the Court by Petition or Stipulation and approved by the Court to become binding.

## **LR89-FL00-11          CHILD CUSTODY AND PARENTING TIME: REFERRALS FOR INVESTIGATION AND REPORT**

**A.      Motion.** On motion of either party with the approval of the Court, or on the Court’s own motion, contested matters involving child custody and parenting time may be referred to appropriate sources for investigation and report to the Court.

**B.      Admissibility.** Subject to the provisions of Ind. Code § 31-17-2-12, all custodial evaluator reports or guardian ad litem reports which are court-ordered regarding custody and/or parenting time shall be admissible into evidence on the motion of either party without the evaluator needing to be present at the hearing. No part of this Rule is intended to supplant the right of either party to compel the attendance of the evaluator or other witnesses as set out in Ind. Trial Rule 45.

**C.      Physical and Mental Examination.** In all contested family law matters involving child custody or visitation, the provision of Ind. Trial Rule 35 providing for the physical or mental examinations by a physician shall be extended to include examination and evaluations by a psychologist, therapist or other qualified evaluator upon order of the Court.

**D.      Parenting Coordinators.** At the discretion of the Court and subject to availability, the Court may appoint parenting coordinators when appropriate.

**E.      Fees.** There shall be a rebuttable presumption that the parties shall equally share the cost of any such referral ordered herein. Factors the Court may consider to deviate from an equal split of said fees include but are not limited to income disparity greater than 65%-35%, whether the referral provided the Court with information beneficial to the family as a whole, and whether the referral provided information confirming the moving party’s position.

**F.      Termination of Guardian Ad Litem Appointment.** Upon the entry of final Decree of Dissolution of Marriage, Legal Separation, Paternity, or Order of permanent modification of any custody, parenting time, and/or child support Order, the appointment of the Guardian Ad Litem shall be deemed terminated unless otherwise ordered by the Court.

**LR89-FL00-12                    REQUIREMENTS BEFORE CUSTODIAL EVALUATION (NOT  
APPLICABLE FOR APPOINTMENT OF GUARDIAN AD LITEM)**

All requests for custody evaluations must be (1) in writing, (2) certify that both parties and their counsel, if any, have engaged in at least one good faith attempt to resolve the issues through the use of a settlement conference or mediation.

The court will not grant a request for or otherwise order a custody evaluation except following a Status Conference in the presence of both parties and their attorneys, if any, during which the court has been satisfied that:

- A. both parties have completed the mandatory website work;
- B. both parents have completed any required co-parenting class;
- C. both parties have exchanged Parenting Plan Proposals;
- D. both parties and their attorneys, if any, have engaged in at least one good faith attempt to resolve the issues through the use of a settlement conference or consultation; and
- E. the court has considered and reviewed with both parties and their attorneys, if any, the use of other resources.

*Commentary: Custody evaluations are sometimes divisive and produce less, rather than more, cooperation between parents. As a result, custody evaluations will be reserved for cases where one or both parents lack the capacity to safely resolve the issues they face. No custody evaluation will be ordered or conducted unless reasonable cooperative measures have been attempted, such as co-parenting education, counseling, and mediation.*

**LR89-FL00-13                    CONTACT WITH CUSTODIAL EVALUATORS AND  
GUARDIANS AD LITEM/COURT APPOINTED SPECIAL  
ADVOCATES**

**A.     Contact with Custodial Evaluators.** In the event a custodial evaluation is ordered by the Court, the Court shall direct the parties to contact the custodial evaluator to arrange for an appointment with the custodial evaluator. Other than making contact with the office of the custodial evaluator to arrange for the client's appointment with the custodial evaluator, counsel shall not initiate contact or otherwise communicate with the custodial evaluator until the custodial evaluator's report has been issued. Prohibited contact or communication shall include the sending of school records, medical records, affidavits, reports, or any other type of written record by the attorney to the custodial evaluator. Information which may be requested by the custodial evaluator shall be delivered or otherwise presented to the evaluator by the party and not counsel.

In the event the custodial evaluator should contact counsel before the evaluator's report has been issued, such fact should be promptly conveyed to opposing counsel indicating the specific dialogue between counsel and the custodial evaluator. Following the issuance of the evaluator's report, the evaluator shall be deemed a witness and counsel shall be permitted ex parte communication with the evaluator at counsel's/client's expense.

Whenever a Court orders a custodial evaluation the Court shall attach a copy of this Rule to its order and shall have the Clerk distribute such order and attached Rule to the designated custodial evaluator.

**B. Contact with Guardians Ad Litem/Court Appointed Special Advocates.** In the event a Guardian Ad Litem/Court Appointed Special Advocate is appointed by the Court, the parties' attorneys shall not communicate with said Guardian Ad Litem/Court Appointed Special Advocate unless said communication includes all other parties to the cause of action. In the event such inclusion is not feasible, the fact that there was communication and the nature thereof shall be disclosed to all other parties within seven days of such communication.

## **LR89-FL00-14 CHILD SUPPORT GUIDELINES**

**A. Worksheet Required.** In all proceedings involving child support, each party shall file with any settlement, or submit to the Court at any hearing or trial, an Indiana Child Support Obligation Worksheet(s) – one or more depending upon the facts. In any request for provisional order that contemplates any order for child support, a Child Support Obligation Worksheet - with supporting documentation such as a recent pay stub and/or an explanation in the body of the Motion as to how the figures were computed - shall be attached to either the Motion for Provisional Order or Affidavit in Support. A response Child Support Obligation Worksheet - with supporting documentation such as a recent pay stub and/or an explanation in the body of the Motion as to how the figures were computed - shall be provided to the other party or to opposing counsel, as the case may be, at least forty-eight hours prior to the provisional hearing, unless reasonable circumstances prevent doing so, and then such Child Support Obligation Worksheet shall be provided to the other party or to opposing counsel at the earliest opportunity.

Child Support Obligation Worksheets shall be promptly supplemented if changes occur prior to trial. Child Support Obligation Worksheets intended to be introduced at trial or final hearing shall be exchanged by the parties or counsel, along with supporting documentation, at least seven days prior to trial.

**B. Support Settlement Agreements.** If an agreement concerning support provides any deviation from the Guidelines, the parties shall present to the Court a written explanation, with supporting documentation, justifying the deviation. The proposed Order shall specifically state that the Court is deviating from the Child Support Guidelines and set forth the reasons for such deviation.

**C. Required Language.** All Orders requiring the payment of child support shall include the following language:

“In the event that an Income Withholding Order is in place and has been activated, child support shall be paid to the State Central Unit and sent to: State Central Collection Unit, Post Office Box 6219, Indianapolis, Indiana, 46206-6219. Payments shall include the Cause Number of this case which is \_\_\_\_\_, the ISETS number which is \_\_\_\_\_, and the last four digits of the payer's social security number. In the event that an Income Withholding Order is not in place or has not yet been activated and child support is being paid directly, payments shall be paid by Money Order to the State Central Collection

Unit, Post Office Box 7130, Indianapolis, Indiana, 46207-7130. Payments shall include the cause number, ISETS number, and last four digits of the payer's social security number, all referenced above. Payment to the Indiana State Central Collection Unit is the preferred method of child support payment and collection. However, the Clerk will accept walk-in payments of cash only. Payments shall include the cause number, ISETS number, and last four digits of the payer's social security number, all referenced above. The payer shall retain a copy of the Clerk's receipt. The payer shall also pay an Annual Support Fee as may be required by law so long as any child support order shall be in effect. The payee shall complete a Child Support Recipient Sheet with the Clerk's Office in order that support may be properly received.

**D. Income Withholding Order Required.** In all proceedings involving child support, an Income Withholding Order shall be submitted with any Settlement Agreement or Final Decree as may be required by statute or the parties shall:

1. Submit a written agreement providing for an alternative child support arrangement; or,
2. Provide within the proposed Decree that "the Court determines that good cause exists not to require immediate income withholding" and stating the specific reasons therefore.

#### **LR89-FL00-15      MODIFICATION OF POST-DECREE CHILD SUPPORT ORDERS**

There is hereby created a rebuttable presumption that modification of post-decree child support orders shall be made retroactive to sixty days following the filing of the petition for modification.

In cases where a change of child custody is involved, there shall be a rebuttable presumption that modification of post-decree child support orders shall be made retroactive to the date of filing of the petition for modification or the date of the de facto change in custody, whichever is later.

#### **LR89-FL00-16      AGREED ENTRIES**

An agreed entry shall not be approved by the Court without a Petition or Stipulation having first been filed. A Petition or Stipulation for Agreed Entry shall specifically set forth the basis and reasons for such Petition or Stipulation which meets the statutory requirements for the same.

#### **LR89-FL00-17      EXHIBITS**

In all family law cases, trial exhibits for the originally initiating party shall be marked as numbers and trial exhibits for the originally responding party shall be marked as letters.

**LR89-FL00-18            FEES**

**A. Attorney Fees.** Attorney fees may be awarded based on evidence presented by way of Affidavit (or oral testimony if the Court shall allow) at the final or other hearing. The Affidavit shall include an itemized statement of the requested fee. Affidavits shall be admissible into evidence by the Court. The following factors may be considered and should be included in any Affidavit submitted to the Court:

1. The number and the complexity of the issues (e.g. custody dispute, complex asset valuation.
2. The nature and extent of discovery and the parties' cooperation therewith (or lack thereof).
3. The time reasonably necessary for the preparation for or the conduct of contested preliminary matters or final hearings.
4. The extent to which either party encouraged or discouraged settlement without protracted litigation.
5. Other matters requiring substantial expenditure of attorney's time.
6. The attorney's hourly rate.
7. The amount counsel has received from all sources.
8. The ability of the opposing party to pay the requested fees and the disparity of income between the parties.

The Court shall have the discretion to award no, partial, or full attorney's fees.

**B. Contempt Citation Attorney Fees.** There shall be a rebuttable presumption that attorney fees will be awarded to the prevailing party in all matters involving a contempt citation.

**LR89-FL00-19            TERMINATION OF REPRESENTATIVE CAPACITY**

**A. Representative Capacity Terminated.** Upon the entry of final Decree of Dissolution of Marriage, Legal Separation, Paternity, or Order of permanent modification of any custody, parenting time and/or child support Order, the representative capacity of all attorneys appearing on behalf of any party shall be deemed terminated upon:

1. An order of withdrawal granted pursuant to local rule;
2. The expiration of time within which an appeal of such Order may be preserved or perfected pursuant to the Indiana Rules of Trial Procedure and/or the Indiana Rules of Appellate Procedure; or
3. The conclusion of any appeal of such Order commenced pursuant to Indiana Rules of Trial Procedure and/or the Indiana Rules of Appellate Procedure.

The failure of the Clerk of Wayne County to remove the appearance of such attorney from the Chronological Case Summary upon the occurrence of one of the above shall not affect the application of this Rule.

**B. Post-Decree Service.** The service of any post-decree pleadings upon any party not represented by counsel pursuant to paragraph A above, despite the possible mistaken continued appearance of said attorney on the Chronological Case Summary, shall be made upon that person pursuant to Indiana Rules of Trial Procedure.

**C. Courtesy Copy.** Any copy served upon original counsel will be deemed to be a matter of professional courtesy only; however, such professional courtesy is encouraged, and if a courtesy copy of such petition is sent to a representative, whether terminated or not, such shall be shown on a certificate of service.

**D. Termination of Appointment of Guardian Ad Litem.** Upon the entry of final Decree of Dissolution of Marriage, Legal Separation, Paternity, or Order of permanent modification of any custody, parenting time and/or child support Order, the appointment of the Guardian Ad Litem shall be deemed terminated. The Guardian Ad Litem shall be under no continuing obligation to continue work on the matter unless otherwise ordered by the Court or reappointed in later proceedings.



## **APPENDIX**

- A. SUMMONS AND NOTICE**
- B. FINANCIAL DECLARATION FORM**
- C. COOPERATION UPDATE FORM**
- D. COOPERATION NOTICE SHEET**

SUMMONS  
**IN THE WAYNE COUNTY CIRCUIT AND SUPERIOR COURTS**

\_\_\_\_\_  
Husband/Father

and

Cause No. \_\_\_\_\_

\_\_\_\_\_  
Wife/Mother

TO: \_\_\_\_\_

Address: \_\_\_\_\_

\_\_\_\_\_

You are hereby notified that a proceeding for (Dissolution of Marriage) (Legal Separation) (Paternity) (Modification) has been initiated by (Husband/Father) (Wife/Mother) in the Court indicated above.

You must complete the attached Financial Declaration Form and submit it to the other party within thirty days after receipt of this Summons.

In any proceeding for Dissolution of Marriage with minor children, Legal Separation with minor children, or Paternity, you must register for one session of Helping Children Cope with Divorce within twenty days after receipt of this Summons. Failure to schedule and attend may result in sanctions. Information regarding said class is attached to this Summons.

If this Summons is accompanied by an Order to Appear or Notice of Hearing, you must appear in Court on the date and time stated in the Order to Appear or Notice of Hearing. If you do not appear, evidence may be heard in your absence and a determination made by the Court. If a Temporary Restraining Order is attached, it is effective immediately upon your receipt or knowledge of the Order.

If you wish to retain an attorney to represent you in this matter, it is advisable to do so before the date stated in the Order to Appear or Notice of Hearing. If you take no action in this case after receipt of this Summons, the Court can grant a (Dissolution of Marriage) (Legal Separation) (Decree of Paternity) or make a determination regarding any of the following: paternity, child custody, child support, maintenance, parenting time, real and/or personal property division, and any other distribution of assets and allocation of debts.

Dated: \_\_\_\_\_

\_\_\_\_\_  
Clerk, Wayne County

The following manner of service of summons is designated:

- ☐ Registered or Certified Mail  
☐ Service on Individual  
☐ Service at place of employment, to-wit: \_\_\_\_\_  
☐ Private Service

\_\_\_\_\_  
Party/Party's Attorney

Address: \_\_\_\_\_

\_\_\_\_\_  
Telephone No. \_\_\_\_\_

Wayne County Circuit and Superior Courts  
Wayne County Courthouse  
301 East Main Street  
Richmond, Indiana 47374  
765.973.9220

## SHERIFF'S RETURN OF SERVICE OF SUMMONS

I hereby certify that I have served this summons on the \_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_:

- (1) By delivering a copy of the Summons and a copy of the Petition.
- (2) By leaving a copy of the Summons and a copy of the Petition at the following address:

\_\_\_\_\_

which is the dwelling place or usual place of abode and by mailing a copy of said Summons to the above address.

- (3) Other service or remarks: \_\_\_\_\_

\_\_\_\_\_  
Sheriff

By: \_\_\_\_\_  
Deputy

### ***CLERK'S CERTIFICATE OF MAILING***

I hereby certify that on the \_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_, I mailed a copy of this Summons and a copy of the Petition by \_\_\_\_\_ mail, requesting a return receipt, at the address furnished by the initiating party.

\_\_\_\_\_  
Clerk, Wayne County

By: \_\_\_\_\_  
Deputy

### ***RETURN OF SERVICE OF SUMMONS BY MAIL***

I hereby certify that the attached receipt was received by me showing that the Summons and a copy of the Petition was accepted by the party being served on the \_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

I hereby certify that the attached return receipt was received by me showing that the Summons and a copy of the Petition was returned not accepted on the \_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

I hereby certify that the attached return receipt was received by me showing that the Summons and a copy of the Petition was accepted by \_\_\_\_\_ on behalf of the party being served on the \_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

\_\_\_\_\_  
Clerk, Wayne County

By: \_\_\_\_\_  
Deputy

***ACKNOWLEDGMENT***

I hereby acknowledge that I have received this Summons and a copy of the Petition on the \_\_\_\_\_  
day of \_\_\_\_\_, \_\_\_\_\_.

\_\_\_\_\_  
Printed:

**STATE OF INDIANA - COUNTY OF WAYNE**

|                |                                 |
|----------------|---------------------------------|
|                | Cause No. _____                 |
| Father/Husband | Dated: _____                    |
| Mother/Wife    | FINANCIAL DECLARATION OF: _____ |

|   |  |
|---|--|
| <b>HUSBAND/FATHER:</b><br>Name: _____<br>Address: _____<br>SSN: _____<br>Occupation: _____<br>Employer: _____<br>Date of Birth: _____ | <b>MOTHER/WIFE:</b><br>Name: _____<br>Address: _____<br>SSN: _____<br>Occupation: _____<br>Employer: _____<br>Date of Birth: _____ |
| <b>ATTORNEY FOR HUSBAND/FATHER:</b><br>Name/Atty ID: _____<br>Address: _____<br>Phone/Fax: _____<br>E-mail: _____                     | <b>ATTORNEY FOR WIFE/MOTHER:</b><br>Name/Atty ID: _____<br>Address: _____<br>Phone/Fax: _____<br>E-mail: _____                     |

Date of Marriage: \_\_\_\_\_

Date of Filing: \_\_\_\_\_

Children of this relationship:

| Name | Date of Birth | SSN | Lives With |
|------|---------------|-----|------------|
|      |               |     |            |
|      |               |     |            |
|      |               |     |            |
|      |               |     |            |

**INCOME AND DEDUCTIONS**

1. Please itemize all sources of household income, to include salary, wages, commissions, pension, retirement, social security, child support, dividends, interest, rents, royalties, business, self-employment, bonuses, alimony/maintenance, capital gains, trust income, gifts, prizes, company car, housing, reimbursed meals. DO NOT INCLUDE government benefits. Please attach the last three years' tax returns and the most recent documentation of year-to-date income, including current paystubs, statements, profit/loss statements, and itemization of ordinary and necessary rental/business expenses.
  
2. If you pay child support for prior born children, please attach the child support worksheet and/or court order along with proof of payment.
  
3. If you have a legal duty of child support for prior born children, please attach the child support worksheet.
  
4. If you pay health insurance for children of this relationship, please attach the notice of premiums established by your insurance provider.
  
5. If you pay alimony/maintenance to prior spouses, please attach the court order along with proof of payment.
  
6. If you have work-related child care costs for children of this relationship, please attach documentation of that cost.
  
7. If you have extraordinary uninsured health care expenses for children of this relationship, please attach documentation of those expenses.
  
8. If you have extraordinary educational expenses for children of this relationship, please attach documentation of those expenses.

# ASSETS

Disclose all assets known to you, even if you do not know the value. Under ownership, H = Husband; W = Wife; J = Joint. Lien amount includes only those debts secured by an item, such as a mortgage against a house, debts shown on title to vehicle, loans against life insurance policies or loans where an item is pledged as collateral. Value assets as of the date the Petition for Dissolution of Marriage was filed.

| DESCRIPTION  | GROSS VALUE | LESS:<br>LIENS/MORTGAGES | NET VALUE | TITLE |   |   |
|--|-------------|--------------------------|-----------|-------|---|---|
|  |             |                          |           | H     | W | J |
| <b>A. HOUSEHOLD FURNISHINGS/FURNITURE/APPLIANCES</b>   |             |                          |           |       |   |   |
| In possession of Husband   |             |                          |           |       |   |   |
| In possession of Wife  |             |                          |           |       |   |   |
| <b>B. AUTOMOBILES, TRUCKS, RECREATIONAL VEHICLES</b><br>Include Make, Model, Year, and Lienholder                |             |                          |           |       |   |   |
|  |             |                          |           |       |   |   |
|  |             |                          |           |       |   |   |
|  |             |                          |           |       |   |   |
|  |             |                          |           |       |   |   |
|  |             |                          |           |       |   |   |
| <b>C. SECURITIES - STOCKS, BONDS, AND STOCK OPTIONS</b>  |             |                          |           |       |   |   |
|  |             |                          |           |       |   |   |
|  |             |                          |           |       |   |   |
|  |             |                          |           |       |   |   |
|  |             |                          |           |       |   |   |
| <b>D. CASH, CHECKING, SAVINGS, DEPOSIT ACCTS, CDS</b><br>(Include name of bank/credit union and type of account) |             |                          |           |       |   |   |
|  |             |                          |           |       |   |   |
|  |             |                          |           |       |   |   |
|  |             |                          |           |       |   |   |
|  |             |                          |           |       |   |   |
|  |             |                          |           |       |   |   |
| <b>E. REAL ESTATE (including sales contracts)</b>  |             |                          |           |       |   |   |
| Marital residence (show address)   |             |                          |           |       |   |   |
| Basis of Valuation:  |             |                          |           |       |   |   |
| Name of lender first mortgage:   |             |                          |           |       |   |   |
| Name of lender second mortgage:  |             |                          |           |       |   |   |
| Other (show address)   |             |                          |           |       |   |   |
| Basis of Valuation:  |             |                          |           |       |   |   |
| Name of lender first mortgage:   |             |                          |           |       |   |   |
| Name of lender second mortgage:  |             |                          |           |       |   |   |
| Other (show address)   |             |                          |           |       |   |   |
| Basis of Valuation:  |             |                          |           |       |   |   |
| Name of lender first mortgage:   |             |                          |           |       |   |   |
| Name of lender second mortgage:  |             |                          |           |       |   |   |

**ASSETS (CONTINUED)**

| DESCRIPTION  | GROSS VALUE | LESS:<br>LIENS/MORTGAGES | NET VALUE | TITLE |   |   |
|--|-------------|--------------------------|-----------|-------|---|---|
|  |             |                          |           | H     | W | J |
| <b>F. CASH RETIREMENT ACCOUNTS (IRAs, SEPs, KEUGHS, 401(k), employee savings plans, stock ownership/profit sharing plans, etc.)</b>                                      |             |                          |           |       |   |   |
|  |             |                          |           |       |   |   |
|  |             |                          |           |       |   |   |
|  |             |                          |           |       |   |   |
|  |             |                          |           |       |   |   |
| <b>G. RETIREMENT BENEFITS, DEFERRED COMPENSATION PLANS AND PENSIONS (include information available on benefits, whether benefits are vested or in pay status)</b>        |             |                          |           |       |   |   |
|  |             |                          |           |       |   |   |
|  |             |                          |           |       |   |   |
|  |             |                          |           |       |   |   |
|  |             |                          |           |       |   |   |
| <b>H. BUSINESS INTERESTS</b>   |             |                          |           |       |   |   |
|  |             |                          |           |       |   |   |
|  |             |                          |           |       |   |   |
| <b>I. LIFE INSURANCE</b><br>(show company name and death benefit)  |             |                          |           |       |   |   |
| <u>Term and Group</u>  |             |                          |           |       |   |   |
| Named beneficiary:   |             |                          |           |       |   |   |
| Named beneficiary:   |             |                          |           |       |   |   |
| Named beneficiary:   |             |                          |           |       |   |   |
| Named beneficiary:   |             |                          |           |       |   |   |
| <u>Whole Life and Others</u><br>(show cash value under gross value)  |             |                          |           |       |   |   |
| Named beneficiary:   |             |                          |           |       |   |   |
| Named beneficiary:   |             |                          |           |       |   |   |
| Named beneficiary:   |             |                          |           |       |   |   |
| Named beneficiary:   |             |                          |           |       |   |   |
| <b>J. OTHER ASSETS</b><br>(include any type of assets having value, including jewelry, personal property, assets located in safety deposit boxes, accrued bonuses, etc.) |             |                          |           |       |   |   |
|  |             |                          |           |       |   |   |
|  |             |                          |           |       |   |   |
|  |             |                          |           |       |   |   |
|  |             |                          |           |       |   |   |

**UNSECURED DEBTS (PERSONAL LOANS/CHARGE CARD EXPENSES, ETC.)**

| COMPANY | FOR | BALANCE | H | W | J |
|---------|-----|---------|---|---|---|
|         |     |         |   |   |   |
|         |     |         |   |   |   |
|         |     |         |   |   |   |
|         |     |         |   |   |   |
|         |     |         |   |   |   |
|         |     |         |   |   |   |



**ASSETS ACQUIRED BY YOU PRIOR TO THE MARRIAGE OR THROUGH INHERITANCE OR GIFT**

(Whether now owned or not)

| DESCRIPTION  | GROSS VALUE | LESS:<br>LIENS/MORTGAGES | NET VALUE | VALUATION DATE |
|--|-------------|--------------------------|-----------|----------------|
| <b>ASSETS OWNED BY YOU PRIOR TO MARRIAGE</b><br>(value as of date of marriage) |             |                          |           |                |
|  |             |                          |           |                |
|  |             |                          |           |                |
|  |             |                          |           |                |
|  |             |                          |           |                |
|  |             |                          |           |                |
| <b>THROUGH INHERITANCE OR GIFTS</b><br>(value as of date of acquisition)       |             |                          |           |                |
| Description:   |             |                          |           |                |
| Acquired from whom:  |             |                          |           |                |
| Description:   |             |                          |           |                |
| Acquired from whom:  |             |                          |           |                |
| Description:   |             |                          |           |                |
| Acquired from whom:  |             |                          |           |                |

I DECLARE UNDER PENALTY OF PERJURY THAT THE FOREGOING, INCLUDING ANY ATTACHMENTS, IS TRUE AND CORRECT, THAT THIS DECLARATION WAS EXECUTED ON \_\_\_\_\_.

\_\_\_\_\_  
Party

YOU MUST ATTACH DOCUMENTATION VERIFYING ALL DATA. YOU ARE UNDER A DUTY TO SUPPLEMENT OR AMEND THIS FINANCIAL DECLARATION FORM PRIOR TO TRIAL IF YOU LEARN THE INFORMATION PROVIDED IS INCORRECT OR NO LONGER TRUE.

**CERTIFICATE OF SERVICE**

I hereby certify that a copy of the foregoing was provided to the following by U.S. mail, postage prepaid, on \_\_\_\_\_:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
Attorney/Pro Se Party

## APPENDIX C COOPERATION UPDATE

### COOPERATION UPDATE FORM

COMES NOW Mother/Father, pro se/by Counsel, and respectfully submits his/her Cooperation Update Form and advises the Court as follows:

1. The parties attempted to resolve the matters at issue and met in person in an attempt to resolve the matters as issue on the following dates: \_\_\_\_\_ by doing the following:.
2. The parties attempted to resolve the matters at issue and had telephone contact in an attempt to resolve the matters at issue on the following dates: \_\_\_\_\_ by doing the following:.
3. The legal issues that we were able to resolve are:
4. The legal issues that we were not able to resolve and that remain are:
5. The factual issues that we were able to resolve are:
6. The factual issues that we were not able to resolve and that remain are:
7. The documents that we discussed and reviewed are:
8. If the parties did not meet in person or by telephone in an attempt to resolve the issues, the reasons we did not do so are:
9. The Mother/Father completed the appropriate website work required under LR89-FL00-4(D), if applicable, on: .
10. The Mother/Father exchanged the appropriate website work required under LR89-FL00-4(D), if applicable, on: .
11. The Mother/Father merged the appropriate website work required under LR89-FL00-4(D), if applicable, on: .
12. The Mother/Father completed attendance of the co-parenting class entitled *Parenting Together to Keep Kids First* required under LR89-FL00-8, if applicable, on: .
13. It is believed that these parents could use the following resources to assist them in resolving current and future issues and to build cooperation: .
14. It is believed that it would assist these parents if the Court would do the following:

15. ~~As attorney for Mother/Father, I hereby certify that I have reviewed and discussed the Wayne County Rules of Family Law with Mother/Father, and have advised Mother/Father of the requirement of cooperation pursuant to the Wayne County Rules of Family Law. I further certify that I have either provided Mother/Father with a copy of the Wayne County Rules Of Family Law or, in lieu thereof, have had Mother/Father certify in writing, under oath, that I have reviewed and thoroughly discussed the Wayne County Rules Of Family Law with them, with particular reference to the requirements of cooperation and what is required as a part of that Rule. If a certification is obtained in lieu of providing a copy of such Rules to Mother and Father, I further certify that I will bring such certification to every court hearing.~~ As attorney for Mother/Father, I have taken the following action to resolve the issues, either temporary issues, final issues, or both, by doing the following:

---

16. As attorney for Mother/Father, I hereby certify that I have reviewed and discussed the Wayne County Rules of Family Law with Mother/Father, and have advised Mother/Father of the requirement of cooperation pursuant to the Wayne County Rules of Family Law. I further certify that I have either provided Mother/Father with a copy of the Wayne County Rules Of Family Law or, in lieu thereof, have had Mother/Father certify in writing, under oath, that I have reviewed and thoroughly discussed the Wayne County Rules Of Family Law with them, with particular reference to the requirements of cooperation and what is required as a part of that Rule. If a certification is obtained in lieu of providing a copy of such Rules to Mother and Father, I further certify that I will bring such certification to every court hearing.

Respectfully submitted,

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Attorney for Mother/Father

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Mother/Father

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Date This Sheet Prepared

## NOTICE

Wayne County has launched a new initiative for families that find themselves with cases in our courts. As judges responsible for these cases, we are committed to making them about ensuring safety, reducing conflict, building cooperation, and protecting children. These cases call for problem-solving in families, not more conflict. **Parents win together** or lose together. If the parents build safety and cooperation and, together, give their children a good place to live, then everyone wins. If the parents make a childhood a painful or dangerous place by remaining in conflict, then everyone loses.

If you have minor children, you are required to attend the class *Parenting Together To Keep Kids First*. Please refer to the yellow sheet for Instructions on completing the required web-site work and how to sign up for the class.

The Wayne County Local Rules require cooperation in family law cases. Except where it would be dangerous to do so, before **any** hearing, whether you have children or not, both parties are required to meet to discuss the matter and to try to reach an agreement. The Court will **not** hear the matter and your hearing will be cancelled unless there has been a prior, good-faith meeting to try to reach an agreement. The Wayne County Local Rules can be found at <http://www.in.gov/judiciary/2882.htm>.

If your case involves children and there is a request for child support, both parents are **required** to prepare an Indiana Child Support Obligation Worksheet (CSOW). In order to prepare the CSOW, please go to the child support calculator found at <https://mycourts.in.gov/csc/parents/>. Both parents shall bring the completed CSOW to any hearings. Failure to prepare the CSOW and to bring it with you to a child support hearing may result in the hearing being cancelled or other sanctions being entered.

With regard to parenting time, except in extraordinary circumstances, the Indiana Parenting Time Guidelines are considered the **minimum** a noncustodial parent should be awarded. You can find the Guidelines at <http://www.in.gov/judiciary/rules/parenting/>.

We trust that you will join us in making Wayne County a leader in protecting children and helping them to become well-adjusted, productive adults.

David A. Kolger, Judge Wayne County Circuit Court  
Charles K. Todd, Jr., Judge Wayne County Superior Court I  
Gregory A Horn, Judge Wayne County Superior Court II